

EXHIBIT J

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

HACHETTE BOOK GROUP, INC.,
HARPERCOLLINS PUBLISHERS LLC,
JOHN WILEY & SONS, INC., and
PENGUIN RANDOM HOUSE LLC,

Plaintiffs,

vs.

No. 1:20-cv-04160-JGK

INTERNET ARCHIVE and DOES 1
through 5, inclusive,
Defendants.

_____ /

-- ATTORNEYS' EYES ONLY --

VIDEOTAPED RULE 30(B)(1) AND 30(B)(6) DEPOSITIONS OF
HARPERCOLLINS PUBLISHERS LLC BY ADAM SILVERMAN

Remote Zoom Proceedings

New York, New York

Monday, December 6, 2021

REPORTED BY:

LESLIE ROCKWOOD ROSAS, RPR, CSR 3462

Pages 1 - 276

Job No. 4867842

Page 1

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE SOUTHERN DISTRICT OF NEW YORK
3
4

5 HACHETTE BOOK GROUP, INC.,
6 HARPERCOLLINS PUBLISHERS LLC,
7 JOHN WILEY & SONS, INC., and
8 PENGUIN RANDOM HOUSE LLC,

9 Plaintiffs,

10 vs.

No. 1:20-cv-04160-JGK

11 INTERNET ARCHIVE and DOES 1
12 through 5, inclusive,
13 Defendants.
14 _____/

15 -- ATTORNEYS' EYES ONLY --
16

17 Videotaped Rule 30(b)(1) and 30(b)(6)
18 depositions of HarperCollins Publishers LLC by
19 ADAM SILVERMAN, taken on behalf of Defendants, Remote
20 Zoom Proceedings from New York, New York, beginning at
21 10:32 a.m. Eastern Daylight Time and ending at 7:54 p.m.
22 Eastern Daylight Time, on Monday, December 6, 2021,
23 before Leslie Rockwood Rosas, RPR, Certified Shorthand
24 Reporter No. 3462.
25

1 APPEARANCES:

2
3 FOR THE PLAINTIFFS:

4 DAVIS WRIGHT TREMAINE LLC

5 BY: LINDA STEINMAN, ESQ.

6 1251 Avenue of the Americas, 21st Floor

7 New York, New York 10020

8 (212) 603-6409

9 lindasteinman@dwt.com

10
11
12 FOR THE DEFENDANT INTERNET ARCHIVE:

13 DURIE TANGRI LLP

14 BY: JESSICA E. LANIER, ESQ.

15 217 Leidesdorff Street

16 San Francisco, California 94111

17 (415) 362-6666

18 jlanier@durietangri.com

19
20
21 Also Present:

22 Andrew Jacobs, Esq. (HarperCollins Inhouse Counsel)

23 John Macdonell, Videographer

24 Chelsea Gilchrist, Concierge

25

Page 3

1 the study, were there any methodological approaches that
2 you disagreed with in terms of getting to that finding?

3 A. I have no expertise in putting together studies
4 like this, so methodologically, I wouldn't have any
5 specifics, no. 19:48:12

6 Q. Okay. Switching gears a little bit here, were
7 you involved in negotiating COVID-related special
8 requests in spring and summer of 2020?

9 A. Business development received -- kind of fielded
10 a number of requests from various of our, kind of, 19:48:36
11 aggregators, you know, library channel as well as K-12.

12 Q. Okay.

13 A. And I -- yes.

14 Q. Do you recall negotiating with the Chicago
15 Public School System for access to a couple of titles? 19:48:57

16 A. I do remember that. I don't recall the
17 specifics. I know that it was in the immediate period
18 when COVID had struck and they were looking to be able to
19 provide titles to their students with the school
20 locations closed, and I believe there were three or four 19:49:17
21 books that had been wanted initially.

22 (Exhibit 264, HC0015518 - 36, was marked for
23 identification by the Concierge electronically.)

24 Q. BY MS. LANIER: Okay. Let's take a quick look
25 at Exhibit 264, and this is a long email thread, and I 19:49:25

1 promise you we're not going to do a long guided tour of
2 it. I'm mainly interested in a couple of dates in this
3 email thread, so just let me know when you have it up and
4 we will commence the guided tour.

5 A. I have it up. 19:49:46

6 Q. Okay. So let's scroll all the way down to the
7 bottom, and it might take your computer a second to load.
8 Mine's still loading.

9 A. Yeah, mine is as well.

10 Q. Okay. So let's go to page -- excuse me -- 17 of 19:50:04
11 the PDF, near the bottom of page 17, and just let me know
12 when that comes up for you.

13 A. For clarity, is that the email from Laura Bunn
14 on April 10th at 2:23 p.m.?

15 Q. It is. 19:50:26

16 A. Yes.

17 Q. Okay. So you've anticipated my question, which
18 was -- well, actually, maybe you haven't.

19 Based on your recollection of this negotiation,
20 and if you need a moment, your review of Laura's email, 19:50:44
21 was April 10th the first day where you became aware of
22 this Chicago Public School System request?

23 A. Yes. Looking at the email, this appears to be
24 the first time she raised it with me.

25 Q. Okay. Now, let's scroll all the way up to the 19:51:09

1 top, page 1 of the PDF, and take a moment and review page
2 1 and 2 of the PDF, and just let me know when you're
3 done.

4 A. Okay.

5 Q. Okay. So let's go back to the top of page 1, 19:51:50
6 and can you tell me what date that email is?

7 A. May 4th.

8 Q. Of 2020?

9 A. Sorry, yes. May 4th of 2020.

10 Q. That's okay. 19:52:07

11 And do you see that this email is from
12 Candacey Jones?

13 A. "Candacey."

14 Q. "Candacey." Okay. Great.

15 And the first full sentence of her email is, 19:52:18

16 "We're happy to handle the paperwork."

17 A. Correct.

18 Q. At this point, based on your recollection and

19 your review of the first two pages of this PDF, were the

20 negotiations for this particular project with the Chicago 19:52:37

21 Public School System complete by May 4th?

22 MS. STEINMAN: Objection.

23 THE WITNESS: I'm not sure when Candacey

24 completed it. Candacey works in a different department

25 at HarperCollins that handles bulk sales. 19:52:57

1 Q. BY MS. LANIER: Okay.

2 A. So I'm not sure the speed with which they were
3 able to implement.

4 Q. Okay. So implementation wouldn't necessarily
5 have happened May 4th. It might have happened a little 19:53:09
6 bit later?

7 A. Again, it's possible. I don't know when the
8 contract was executed or when files were made available.

9 Q. Got it. Okay.
10 Was it typical during the pandemic for special 19:53:24
11 requests from school systems to take nearly a month to
12 negotiate?

13 A. This one did. I don't recall any others and
14 their time frame.

15 Q. Okay. 19:53:53

16 MS. STEINMAN: Jesse, I'll give you another
17 question or so, but I think we're over.

18 MS. LANIER: Okay. Actually, I don't need the
19 extra moment. I am done with my questioning.

20 Mr. Silverman, I want to thank you so much for 19:54:12
21 your time today. I know that getting deposed is not fun
22 or particularly pleasant, but I hope it hasn't been too
23 terrible for you, and really appreciate your time today,
24 sir.

25 THE WITNESS: Thank you. 19:54:29

1 STATE OF CALIFORNIA) ss:

2 COUNTY OF MARIN)
3

4 I, LESLIE ROCKWOOD ROSAS, RPR, CSR NO. 3462, do
5 hereby certify:

6 That the foregoing deposition testimony was
7 taken before me at the time and place therein set forth
8 and at which time the witness was administered the oath;

9 That testimony of the witness and all objections
10 made by counsel at the time of the examination were
11 recorded stenographically by me, and were thereafter
12 transcribed under my direction and supervision, and that
13 the foregoing pages contain a full, true and accurate
14 record of all proceedings and testimony to the best of my
15 skill and ability.

16 I further certify that I am neither counsel for
17 any party to said action, nor am I related to any party
18 to said action, nor am I in any way interested in the
19 outcome thereof.

20 IN WITNESS WHEREOF, I have subscribed my name
21 this 8th day of December, 2021.
22

23 
24

25 LESLIE ROCKWOOD ROSAS, RPR, CSR NO. 3462